

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

SOLARIA CORPORATION,	)	Case No. 13-cv-05201-SC
	)	
Plaintiff,	)	<u>JUDGMENT</u>
	)	
v.	)	
	)	
T.S. ENERGIE E RISORSE, S.R.I.; et	)	
al.,	)	
	)	
Defendants.	)	
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On December 17, 2014, the Court granted Plaintiff Solaria Corporation's ("Solaria") motion for default judgment. ECF No. 50 ("DJ Order"). However, the Court declined to enter judgment at that time because Solaria had not submitted proof of the amount of damages. Accordingly, the Court ordered Solaria to submit proof of the claimed amount of damages within twenty-one days. Id. On December 18, 2014, Solaria submitted two additional documents, each with an attached exhibit: the declaration of Jason Jungreis (ECF No. 51, "Jungreis Decl.") and the declaration of Suvi Sharma (ECF No. 51-3, "Sharma Decl."). The Court finds the evidence contained in the Sharma Declaration and its attached exhibit sufficient to

1 establish the amount of damages owed Solaria. Before explaining  
2 the details of the judgment, the Court pauses to address the  
3 concerns that Mr. Jungreis raised in his declaration.

4 First, Mr. Jungreis complains that the Court failed to  
5 consider the amount of damages alleged in the complaint:

6 As the Court has not provided specific guidance  
7 to SOLARIA as to the evidence it seeks, despite  
8 that the Complaint and its Exhibits are clear  
9 as to the \$484,816.10 sum certain owed by T.S.  
10 ENERGIE from the specific date of January 31,  
2013 for breach of contract for goods received,  
and despite that the Complaint and its Exhibits  
are clear that the only remaining task is  
calculation of contractual interest due . . . .

11 Jungreis Decl. ¶ 9. The complaint does indeed allege the amount of  
12 damages owed Solaria; it contends that TSE failed to make a final  
13 payment of \$484,816.20. ECF No. 1-1 ("Compl.") ¶ 12. The attached  
14 exhibits are (1) a quote from Solaria, signed by a Solaria  
15 representative and a TSE representative, specifying a total price  
16 of \$1,020,000.00 for work Solaria was to perform; and (2) a change  
17 order specifying certain dates and conditions of payment. Id. Ex.  
18 1. None of the exhibits attached to the complaint contain any  
19 record of payments (or lack thereof) made to Solaria. In fact, as  
20 the Court pointed out in its order granting default judgment, the  
21 exhibits attached to the complaint actually specify that the final  
22 payment (the one at issue in this case) should be \$389,700, not the  
23 \$484,816.20 Solaria claims.<sup>1</sup> DJ Order at 8. Thus there is no  
24 evidence in the record to support the amount of damages Solaria  
25 claims. The only basis for the amount claimed is the allegation in

26 <sup>1</sup> This discrepancy, in fact, reveals one of the motivations for the  
27 rule that the plaintiff must prove the amount of damages. If no  
28 proof were required, the plaintiff could simply allege any amount  
he pleases and collect a judgment in an amount not at all justified  
by the facts or law of the case.

1 the complaint.

2 But the Ninth Circuit has made it abundantly clear that, when  
3 determining whether to enter default judgment, "[t]he general rule  
4 of law is that upon default the factual allegations of the  
5 complaint, except those relating to the amount of damages, will be  
6 taken as true." TeleVideo Sys., Inc. v. Heidenthal, 826 F.2d 915,  
7 917-18 (9th Cir. 1987). "If the plaintiff is seeking money  
8 damages, however, the plaintiff must 'prove-up' its damages. The  
9 plaintiff is required to provide evidence of its damages, and the  
10 damages sought must not be different in kind or amount from those  
11 set forth in the complaint." Amini Innovation Corp. v. KTY Int'l  
12 Mktg., 768 F. Supp. 2d 1049, 1053-54 (C.D. Cal. 2011). But as  
13 discussed above and in the Court's prior order, Solaria did not  
14 prove, much less provide any evidence of, its damages when it moved  
15 for default judgment.

16 Next, Mr. Jungreis laments that "SOLARIA is further frustrated  
17 due to the missed opportunity to appear at the scheduled November  
18 14, 2014 hearing, which would have enabled SOLARIA to provide such  
19 evidence as would satisfy the Court, and which would have provided  
20 SOLARIA the forum to express its urgent desire to promptly obtain  
21 its Judgment in this matter." Jungreis Decl. ¶ 10. The Court  
22 reminds Solaria that neither the Federal Rules of Civil Procedure  
23 nor the Civil Local Rules require the Court to hold a hearing; a  
24 party may be deemed "heard" after the Court has considered the  
25 motion papers. See Fed. R. Civ. P. 55(b)(2) ("The court may  
26 conduct hearings or make referrals . . . when, to enter or  
27 effectuate judgment, it needs to . . . determine the amount of  
28 damages") (emphasis added); Civ. L.R. 7-1(b) ("In the Judge's

1 discretion . . . a motion may be determined without oral argument  
2 or by telephone conference call."). The issues raised in Mr.  
3 Jungreis' declaration aside, the Court now turns to the new  
4 evidence submitted in support of Solaria's default judgment.

5 Solaria has now submitted the declaration of Suvi Sharma,  
6 Solaria's president. Mr. Sharma states that he directed Solaria's  
7 Chief Financial Officer ("CFO") to determine the amount due on  
8 TSE's account with Solaria. Sharma Decl. ¶ 2. He attaches a  
9 spreadsheet created by the CFO which indeed specifies that TSE owed  
10 \$484,816.10 to Solaria as of January 31, 2013. Id. Ex. 1.  
11 Accordingly, the Court finds that the principal TSE owes to Solaria  
12 is \$484,816.10.

13 Next, the Court must calculate the interest owed. The "Terms  
14 and Conditions of Sale" attached to the complaint specify a late  
15 payment penalty of 2 percent per month of the unpaid balance due  
16 Solaria. Compl. Ex. 1. The Terms do not specify whether simple or  
17 compound interest should be used, but the Court finds that simple  
18 interest should be used for three reasons: (1) the Terms do not  
19 specify the type of interest to use, (2) using simple interest  
20 results in a smaller amount of damages (and therefore is to TSE's  
21 advantage), and (3) Solaria apparently concedes that simple  
22 interest should be used. See Jungreis Decl. ¶ 9 (directing the  
23 Court to an online simple interest calculator).

24 Simple interest is calculated by multiplying the principal by  
25 the interest rate by the number of interest periods elapsed. See  
26 "Definition of 'Simple Interest'", Investopedia,  
27 [http://www.investopedia.com/terms/s/simple\\_interest.asp](http://www.investopedia.com/terms/s/simple_interest.asp) (last  
28 visited December 19, 2014). As discussed previously, the Court

1 finds that the principal owed is \$484,816.10, and that the interest  
2 rate is 2 percent per month. The Payment was due on January 31,  
3 2013. It is now January 5, 2015, so 704 days have elapsed. The  
4 change order specifies that "[p]ayment terms are net 30, unless  
5 otherwise agreed to by both parties." Compl. Ex. 1. Accordingly,  
6 the Court uses a day count conversion with a 30-day month,  
7 resulting in a daily penalty of \$323.21. As a result, the amount  
8 of interest owed is \$323.21 x 704, which comes to \$227,539.84. The  
9 total amount owed, therefore, is \$712,355.94.

10 For the reasons set forth above, it is hereby ORDERED,  
11 ADJUDGED, and DECREED that Default Judgment in this action shall be  
12 entered in favor of Plaintiff Solaria Corporation and against  
13 Defendant T.S. Energie e Risorse, S.R.I. in the amount of  
14 \$712,355.94.

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17 IT IS SO ORDERED, ADJUDGED, AND DECREED.

18  
19 Dated: January 5, 2015

  
UNITED STATES DISTRICT JUDGE